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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,998	08/21/2003	Bernard C. Governale	42635-W &F	1118
7590	03/17/2006		EXAMINER	
Stuart O. Lowry KELLY BAUERSFELD & KELLEY, LLP Suite 1650 6320 Canoga Avenue Woodland Hills, CA 91367			A, PHI DIEU TRAN	
			ART UNIT	PAPER NUMBER
			3637	
DATE MAILED: 03/17/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/646,998	GOVERNALE ET AL.	
	Examiner	Art Unit	
	Phi D. A	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 January 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-29,31,33 and 34 is/are rejected.
- 7) Claim(s) 30 and 32 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/10/05, 8/18/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

Election/Restrictions

1. Applicant's election without traverse of claims 1-34 to specie of figure 11 in the reply filed on 1/6/06 is acknowledged.

Claim Objections

2. Claims 6, 17 are objected to because of the following informalities:
Claim 6 line 2 "bolt body" is improper. Should it be "boot body"?
Claim 17 line 2 "bolt body" is improper. Should it be "boot body"?
Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 14, 26-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 is confusing. The independent claim 1 clearly is to a subcombination between the double panel set/doors and the astragal boot. However, claim 14 appears to claim the panel set in combination with the astragal boot. The claim is thus indefinite. The claim is examined as best understood as to a subcombination between the astragal boot and the door set.

Claim 26 appears to claim a combination between the astragal boot with a pair of jambs, upper header, a lower threshold, primary and semi-active panels, an astragal, weather-strip carried at the bottom of the panels. However, the language "an astragal boot" comprising

appears to claim the boot being subcombination with all the above-mentioned structures. The claims are examined as best understood to be claiming a combination between the astragal boot and the other structures set forth above. Also, since it is a combination claim, language perhaps should refer to the claimed structures as a system, not just an astragal boot, since it confuses the scope of the claim. The dependent claims 27-34 line 1 “the astragal boot” need to be changed to reflect the combination of structures of the claims.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7-12, 14-16, 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Mullet et al (5481076).

Mullet et al shows an astragal boot comprising a boot body (45), at least one fin (32) projecting downwardly from the boot body, the body if formed from a molded plastic material (cool 7 lines 31-35), a substantially rigid reinforcing plate (20, 120), the plate is snap-fit mounted to the boot body, the at least one fin comprising a compliant fin, the fin increases in flexibility toward a distal end thereof, the at least one fin comprising a pair of fins (the fins next to each other) carried by the boot body in a generally spaced apart substantially parallel relation to define a recess therebetween, a support pin (37) upstanding form the boot body, a slot (the opening between part 37, 38) formed in the boot body, the fins defining a recess therebetween.

3. Claims 1-3, 6-7, 26-29, 31, 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Headrick (5827291).

Headrick shows a double panel set including a frame defining an opposed pair of jambs (cool 1 lines 34-58) extending between an upper header and a lower threshold, primary and semi-active panels hingedly supported respectively by the pair of said jambs, an astragal (31) disposed at a free side edge of the semi-active panel and a defining a stop surface for engagement by a free side edge of the primary panel when the primary and semi-active panels are in a closed position, and weather-strip (51) carried at the bottom edges of the primary and semi-active panels, an astragal boot (46) comprising a boot body at a lower end of the astragal, the boot body carrying at least one fin (48) projecting downwardly therefrom for engaging the threshold when the semi-active panel is in a closed position for substantially closing a gap between adjacent ends of the weather-strip carried at the bottom edges of the panels when the panels are in the closed position, the boot body being formed from a molded plastic material having a size and shape for substantially mated fit mounting onto the lower end of the astragal, a substantially rigid reinforcing plate (41), at least one bolt port (where bolt 44 goes through) formed in the boot body for slid-through passage of a lock bolt carried by the semi-active panel and engageable with a keeper on the threshold, a support pin (41) upstanding from the boot body, the support pin being engagement with and supporting a lower end of a weather-strip (33) carried by the astragal, the boot body is reversibly mountable onto the lower end of the astragal carried by the semi-active panel in respective right and left-hand orientations (inherently so), the semi-active panel comprising a semi-active door, the primary panel comprising a primary door.

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4. Claims 1, 13, 15, 17, 19, 20, 22, 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Brumfield Jr. et al (4261189).

Brumfield Jr. et al (figure 2) shows an astragal boot (32, inherently could function as an astragal boot), a plurality of compliant fins (40, 43, compliant: Webster's dictionary -→ ready or disposed to comply, and the fins are ready to comply with other joining structures) projecting downwardly from the boot body, the fins defining a recess (the space between) therebetween, at least one bolt port (36) formed in the boot body, a slot (34) formed in the boot body, a first bolt port (36) formed in the boot body, a second bolt port (34) formed on the body, the at least one fin comprising a pair of fins (43, 40) carried by the boot body in generally spaced apart substantially parallel relation to define a recess therebetween, first and second wall segments (46, and the part forming the opening of 38) formed on the boot body and separably connected thereto, the wall segment being removable (inherently so).

Per claim 20, Brumfield shows all the claimed structural limitations. The structure as shown is inherently able to function as claimed.

Per claim 25, Brumfield shows all the claimed structural limitations. The structure as shown, is inherently able to function as claimed.

5. Claims 1-4, 6-7, 9, 11-17, 19-25 are rejected under 35 U.S.C. 102(a) as being anticipated by Massey et al (2003/0052492).

Massey et al (figure 14a) shows an astragal boot (32, inherently could function as an astragal boot) comprising a body (86), at least one fin (designated by top of parts 88, 87), projecting downwardly from the boot body, the body is formed of plastic material (paragraph 50 line 3), a substantial grid plate reinforcing plate (34), at least one bolt port (figure 14a, the

vertical slots) formed in the boot body, the at least one fin comprising a compliant fin (compliant: Webster's dictionary -→ ready or disposed to comply, and the fins are ready to comply with other joining structures) the at least one fin comprising a pair of fins carried by the boot body in generally spaced apart substantially parallel relation to define a recess therebetween (the space in between), a slot (24) formed in the boot body, the at least one fin comprising a plurality of spaced apart fins carried by the boot body, first and second bolt ports (the vertical slots), the double panel set comprising a hinged double door set including a semi-active door and a primary door, first and second support pins (the pins being opposite the fins) upstanding from the boot body and separably connected thereto, first and second wall segments (the parts opposite the fins) formed on the boot body and separably connected thereto, the wall segments being removable (inherently so).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Headrick (5857291).

Headrick shows all the claimed limitations except for the plate being co-molded with the boot body.

Headrick shows the plate being attached to the boot body.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Headrick's structure to show the plate being co-molded with the boot body because having the plate co-molded with the boot body would enable the body to be bonded to the plate at manufacture and thus enables time saving at installation as less parts are assembled.

Allowable Subject Matter

8. Claims 30, 32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: prior art does not shows a pair of fins carried by the boot body in generally space apart substantially parallel relation to define a recess in combination with other claimed limitations; and prior art also does not show a slot formed in the boot body for receiving and supporting a lower end of a weather-strip carried by the astragal in combination with other claimed limitations.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different astragal boot designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phu Dieu Tran A
3/13/06